

REMARKS/ARGUMENTS

The present application has been reviewed in light of the Office Action mailed July 28, 2006. Claims 62-70 and 73-75 remain pending in the application, claims 69, 70 and 73-75 having been amended herein, and claims 71, 72 and 76-99 having been previously withdrawn. Applicant reserves the right to present claims 71, 72 and 76-99 in a Divisional and/or Continuation application, as needed. Reconsideration of the present application, as presented herein, is respectfully requested.

Claims 70 and 73-75 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 70 and 73-75 have been amended herein in a manner which is believed to overcome the rejection of said claims under 35 U.S.C. 112, second paragraph. Accordingly, in view of the amendments to claims 70 and 73-75, said rejection of claims 70 and 73-75 under 35 U.S.C. 112, second paragraph, should be withdrawn.

Claim 69 was rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

Claim 69 has been amended herein in a manner which is believed to overcome the rejection of said claim under 35 U.S.C. 112, first paragraph. Further, Applicant submits that one of ordinary skill in the art would in fact know how to provide a cover layer having a plurality of compressible bubbles therein. Accordingly, in view of the amendment to claim 69 and in view

of the argument presented above, Applicant respectfully submits that said rejection of claim 69 under 35 U.S.C. 112, first paragraph, should be withdrawn.

Claims 62-64, 73 and 75 were rejected under 35 U.S.C. 102(b) as being anticipated by GB 2349798 to Plant (hereinafter, "Plant '798"). Applicant submits that claim 62, as originally presented, is allowable over Plant '798.

Claim 62 as originally presented recites a flexible energy absorbing material comprising, *inter alia*, a resilient carrier with ***voids or cavities*** therein, said carrier being coated or impregnated or combined with a dilatent material. (Emphasis added).

According to the present disclosure, the resilient carrier includes multiple ***voids or cavities*** which are not discrete/separate or spaced from each other but are instead continuous in nature. As such, in use, when a force is applied to the energy absorbing sheet said force is transmitted not only through the dilatent contained in one void or cavity but also through the dilatent contained in other voids and cavities adjacent to that void or cavity to which said force is applied. In other words, the dilatent material may move between voids or cavities as needed in order to absorb the force applied thereto.

The Examiner is reminded that pursuant to M.P.E.P § 2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

In contrast to the present disclosure, Plant '798 discloses a protective member comprising an energy absorbing material (2) encapsulated in a ***single*** flexible envelope (3, 4). Accordingly,

the absorbing material (2) of Plant '798 is prohibited from exiting envelope (3, 4) during energy or force absorption unless envelope (3, 4) ruptures, thus spilling absorbing material (2) and destroying the function for which it is intended.

Accordingly, in view of the foregoing arguments, Applicant respectfully submits that claim 62 is not anticipated under 35 U.S.C. 102(b) over Plant '798 because Plant '798 fails to disclose all the limitation of claim 62 as required pursuant to M.P.E.P § 2131. As such, the rejection of claim 62 as being anticipated under 35 U.S.C. 102(b) over Plant '798 has been overcome and should be withdrawn.

Since claims 63, 64, 73 and 75 depend, directly or indirectly, from claim 62, and contain all of the features of claim 62, for the reasons presented above regarding the allowability of claim 62, Applicant respectfully submits that claims 63, 64, 73 and 75 are also allowable under 35 U.S.C. 102(b) over Plant '798.

Claims 62-64 and 73-75 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2005/0037189 to Palmer (hereinafter, "Palmer '189"). Applicant submits that Palmer '189 is not a valid 102(e) reference for the purposes of anticipating claims 62-64 and 73-75 of the present application.

As presented in the Substitute Specification filed on March 10, 2004, the present application properly claims the benefit of and priority to International Application No. PCT/GB02/04209, filed on September 13, 2002, which in turn properly claims the benefit of and priority to GB Application Nos. 0122082.1 and 0122084.7, each filed on September 13, 2001, GB Application No. 0123844.3, filed on October 4, 2001.

Applicant submits that the earliest possible priority date for Palmer '189 is December 22, 2001, the filing date of the British priority application, namely, GB 0130834.5.

Applicant respectfully submits that the earliest possible priority date for Palmer '189 is still after any of the earliest priority dates for the present application. In support thereof, Applicant submits herewith a copy of Revised Application Data Sheet, electronically submitted on January 16, 2007, in which the priority data of the present application was updated to reflect the chain of priority to GB Application Nos. 0122082.1, 0122084.7, and 0123844.3.

Accordingly, in view of the foregoing, Applicant respectfully submits that Palmer '189 is not a valid 102(e) reference for the purposes of anticipating claims 62-64 and 73-75 of the present application and thus the rejection of claims 62-64 and 73-75 as being anticipated by Palmer '189 should be withdrawn.

Claims 62-64 and 73-75 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,701,529 to Rhoades (hereinafter, "Rhoades '529"). Applicant submits that claim 62, as originally presented, is allowable over Rhoades '529.

In contrast to the present disclosure, Rhoades '529 discloses a smart padding system comprising a novel material composition (12) packaged within a single containment (14). Accordingly, the novel material composition (12) of Rhoades '529 is prohibited from exiting containment (14) during energy or force absorption unless containment (14) ruptures, thus spilling novel material composition (12) and destroying the function for which it is intended.

Accordingly, in view of the foregoing arguments, Applicant respectfully submits that claim 62 is not anticipated under 35 U.S.C. 102(e) over Rhoades '529 because Rhoades '529 fails to disclose all the limitation of claim 62 as required pursuant to M.P.E.P § 2131. As such, the rejection of claim 62 as being anticipated under 35 U.S.C. 102(e) over Rhoades '529 has been overcome and should be withdrawn.

Since claims 63, 64, 73, 74 and 75 depend, directly or indirectly, from claim 62, and contain all of the features of claim 62, for the reasons presented above regarding the allowability of claim 62, Applicant respectfully submits that claims 63, 64, 73, 74 and 75 are also allowable under 35 U.S.C. 102(e) over Rhoades '529.

Claims 62-64 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,776,839 to Dischler (hereinafter, "Dischler '839"). Applicant submits that claim 62, as originally presented, is allowable over Dischler '839.

In contrast to the present disclosure, Dischler '839 discloses a dilatant ***powder*** coated fabric. According to Dischler '839, the word "dilatant" is not used in its usual sense to refer to a shear thickening fluid, but refers herein to a powder which solidifies under pressure." (see Col. 3, lines 64-66).

In the instant application, the term "dilatent material" is being used in its usual sense to refer to a shear thickening material, i.e. a material that exhibits increasing viscosity with increasing shear rate.

Since Dischler '839 refers to a "dilatant powder that solidifies under pressure", Applicant respectfully submits that the "dilatant powder" of Dischler '839 does not exhibit the aforementioned property because powders do not strictly have a viscosity in the same sense that a fluid does.

Accordingly, in view of the foregoing arguments, Applicant respectfully submits that claim 62 is not anticipated under 35 U.S.C. 102(b) over Dischler '839 because Dischler '839 fails to disclose all the limitation of claim 62 as required pursuant to M.P.E.P § 2131. As such, the rejection of claim 62 as being anticipated under 35 U.S.C. 102(b) over Dischler '839 has been overcome and should be withdrawn.

Since claims 63 and 64 depend, directly or indirectly, from claim 62, and contain all of the features of claim 62, for the reasons presented above regarding the allowability of claim 62, Applicant respectfully submits that claims 63 and 64 are also allowable under 35 U.S.C. 102(b) over Dischler '839.

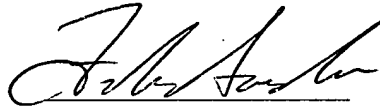
Claims 65-68 and 70 were rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer '189 in view of U.S. Patent 5,589,245 to Roell (hereinafter "Roell '245"). Applicant respectfully submits that claims 65-68 and 70 are each patentable over Palmer '189 in view of Roell '245.

Since claims 65-68 and 70 depend, either directly or indirectly, from independent claim 62 and contain all of the limitations of claim 62, Applicant respectfully submits that claims 65-68 and 70 are also allowable over Palmer '189 in view of Roell '245.

Should the Examiner believe that a telephone interview may facilitate resolution of any outstanding issues, the Examiner is respectfully requested to telephone Applicants' undersigned attorney at the number indicated below.

In view of the foregoing amendments and remarks, reconsideration of the application and allowance of all claims 62-70 and 73-75 is earnestly solicited.

Respectfully submitted,



Francesco Sardone
Registration No. 47,918
Attorney for Applicant

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road, Suite 225
Melville, NY 11747
Tel.: (631) 501-5700
Fax.: (631) 501-3526
FS/nr